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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/923,052	08/06/2001	Masafumi Mackawa	FUJI 18.898	9865

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EXAMINER

TRUONG, CAMQUY

ART UNIT	PAPER NUMBER
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2195

DATE MAILED: 07/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/923,052

Applicant(s)

MAEKAWA ET AL.

Examiner

Camquy Truong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. Claims 1-10 are presented for examination.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A. The claim language in the following claims is not clearly understood:

- i. As to claim 1, line, 6, it is not clearly understood what "have been obtained" (i.e. hardware resource obtaining request or obtained hardware resources); line 8, it is not clearly understood "resource usage of each of the obtained hardware resources is identical with a resource usage of the hardware resource obtaining request" (i.e. the amount of the resource usage of obtained resource is the same as the amount of the amount of the resource usage obtaining request or the resource usage type of the obtaining resources is identical with the resource usage type of the resource usage type of the obtaining request).
- ii. As to claim 7, it is not clearly indicated what is meant by "unused area of one obtained hardware resource" (i.e. the available hardware resource in the system).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brouwer (U.S. Patent 6,760,303 B1).

6. Brouwer was cited in the last office action.

7. As to claims 1, 7 and 10, Brouwer teaches the invention substantially as claimed including: A method for obtaining resource (col. 6, lines 48-51; col. 7, lines 8-14), said method comprising the steps of:

Obtaining additional resources from available resources which have not been obtained in the system, for a resource usage of a resource obtaining request, when each use rate of resources exceeds a predetermined threshold in that the obtained hardware resources, have been obtained and resource usages of each of the obtained resource is identical with a resource usage of the resource obtaining request (col. 6, lines 48-51; col. 7, lines 8-14 and lines 49-52),

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8. Brouwer does not explicitly teach the resource is the hardware resource.

However, Brouwer teaches that his resource is the channel (col. 6, lines 40-48; col. 7, lines 1-2). It would have been obvious to one of ordinary skill in the art at the time the invention was made that Brouwer's system channel was in fact a hardware resource as claimed because the hardware resource would enable the system to conserve resources and overhead, and better reflect actual network condition.

9. As to claim 2, it is rejected for the same reason as claim 1. In addition, Brouwer teaches a comparing part comparing a predetermined threshold with use rate for each of a plurality of obtained resource usage, and which resource usages are identical with a resource usage of a resource obtaining request (col. 7, lines 24-37).

10. As to claim 3, Brouwer teaches a securing part secure some of the available resources so as to obtain at least one of the resources for each of a plurality of available resource usages (col. 7, lines 3-15).

11. As to claim 4, Brouwer teaches an obtaining -to-use part obtaining a part of an unused area of the obtained resources in a condition in which each resource usage of the obtained resources is identical with the resource usage of said resource obtaining request and each use rate of the obtained resources exceeds the predetermined threshold (col. 4, lines 25-33; col. 6, lines 47-52; col. 7, lines 29-31 and lines 49-52).

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12. As to claims 5 and 8, Brouwer teaches a threshold setting part dynamically setting a threshold of said each resource usage based on the use rate of said each resources usage of the obtained resource in the system (col. 7, lines 25-31; col. 8, lines 6-10).

13. As to claim 6, Brouwer teaches a given threshold setting part setting a given threshold to the threshold of said each resource to the threshold of said each resource usage of the obtained resources in the system (col. 4, lines 37-39).

14. As to claim 9, Brouwer teaches a priority setting part setting a priority of each resource usage based on the use rate of said each resource usage of the obtained resources in the system (col. 11, lines 26-28).

Response to the argument

15. Applicant arguments filed on 4/20/05 had been considered but they are not persuasive. In the remarks applicant argued (1) " In sharp contrast to the method of Brouwer, Applicants' claimed method addresses the assignment of a hardware resource based on a hardware resource obtaining request, which only assigns a new resource for the current resource request and additional resource requests of the same usage type when a resource occupancy of currently assigned resources exceeds a predetermined threshold. As claimed for example in Applicants' amended independent claim 7, rather than assigning new resources, additional unused portions of obtained resources

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continue to be used to satisfy new hardware resource obtaining request of the same usage type until the time that the predetermined threshold has been exceeded”.

16. Examiner respectfully traverses Applicant's remarks:

As to point (1), Brouwer teaches switching from a dedicated channel to a common channel (only those users who truly need or require dedicated channels at given points in time are supported by such channels) if the amount of information stored in a transmit buffer of the user connection exceeds a particular threshold (col. 7, line 39-col. 8, line 5). Usage type does not clearly described in the claim 1. Brouwer teaches switching from a common channel to a dedicated channel (col. 7, 49-50). New hardware resource obtaining requests of the same type until the time that the predetermined threshold has been exceeded does not clearly described in the claim 7.

17. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Camquy Truong whose telephone number is (571) 272-3773. The examiner can normally be reached on 8AM – 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on 571-272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-3756.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIP. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIP system, contact the Electronic Business Center (EBC) at 866-217-9197(toll-free).

Camquy Truong

June 28, 2005



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